

REMARKS

This application has been reviewed in light of the Office Action dated July 15, 2003. Claims 1, 2, 8-11, 20-22, 24, 28, and 34-49 are presented for examination, of which claims 1, 24, and 28 are in independent form. Claims 1, 2, 8-11, 20-22, 24, 28, 34-37, 39-45, and 47-49 have been amended to define more clearly what Applicants regard as their invention. Favorable reconsideration is requested.

Claims 1, 2, 8-11, 20-22, 24, 28, and 34-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,226,769 (*Schuster et al.*)¹.

As shown above, Applicants have amended independent claims 1, 24, and 28 in terms that more clearly define what they regard as their invention. Applicants submit that these amended independent claims, together with the remaining claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in claim 1 is a data communication system. The system comprises a source node and one or more destination nodes. The source node is adapted to set a segment size in accordance with reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, to segment the object data into one or more segments in accordance with the segment size, and to transfer data in each segment to one or more destination nodes via a logical connection.

¹/ Applicants note that the present Office Action does not recite the claim language from the previous amendment. Further, Applicants again understand the Office Action's references to U.S. Patent 6,185,210 B1 (*Troxel*), at page 3, to be erroneous, and that the only outstanding rejection is based on *Schuster et al.* If that is not the case, then the outstanding Office Action should be vacated and a new Action, stating the actual rejection, issued.

One important feature of claim 1 is that the source node is adapted to set a segment size in accordance with reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, to segment the object data into one or more segments in accordance with the segment size, and to transfer data in each segment to one or more destination nodes via a logical connection.

The applied art is not seen to disclose or suggest the structure recited in independent claim 1.

As discussed in the Amendment After Final Rejection And Petition For Extension Of Time dated April 10, 2003, *Schuster et al.* relates to a system for correcting the loss of data packets in packet switched telecommunications networks. The *Schuster et al.* system uses a coding technique in which parity bits associated with current packets are piggy-backed onto future packets. Further, the *Schuster et al.* system concatenates a single forward error correction (FEC) code (block code, or redundancy block) with each payload packet in a way that enables recovery of multiple lost packets. However, nothing has been found in *Schuster et al.* that teaches or suggests a source node adapted to set a segment size in accordance with reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, to segment the object data into one or more segments in accordance with the segment size, and to transfer data in each segment to one or more destination nodes via a logical connection.

The Office Action cites column 8, lines 20-30, of *Schuster et al.* as disclosing setting a segment size in accordance with a reception capability of one or more destination nodes,

and column 8, lines 15-20, as disclosing dividing (segmenting) the object data into one or more segments in accordance with the variable lengths of the packet (segment sizes). However, Applicants respectfully disagree with this understanding of *Schuster et al.* and submit that column 8, lines 20-30, merely describes a structure (extracting several kinds of information from received information) of a reception side, and lines 15-20 describe a structure (changing a length of a packet) of a transmission side. In contrast, it is the source node of claim 1 that sets a segment size in accordance with the reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, segments the object data into one or more segments in accordance with the segment size, and transfers data in each segment to one or more destination nodes via a logical connection. That is, claim 1 recites segmenting object data into one or more segments in accordance with the segment size, and does not refer to the variable lengths of the packet. Applicants respectfully submit that *Schuster et al.* fails to disclose segmenting the object data into one or more segments in accordance with the segment size because the *Schuster et al.* system assumes that the object data (digital data stream or payload) is already divided into segments (sequence of frames or payload packets) (column 3, lines 8-11).

Applicants submit that nothing has been found, or pointed out, in *Schuster et al.* that would disclose or suggest that the source node is adapted to set a segment size in accordance with reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, to segment the object data into one or more segments in accordance with the segment size, and to transfer data in each segment to one or more destination nodes via a logical connection, as recited in claim 1.

For at least these reasons, independent claim 1 is believed clearly patentable over *Schuster et al.*, taken alone.

Troxel is not seen to overcome the deficiencies of *Schuster et al.* As Applicants stated in the Amendment dated October 8, 2002, *Troxel* relates to a system and method for optimizing traffic flow control of data through a node in a network system. The *Troxel* system includes a plurality of open point-to-multipoint virtual circuits (VCs) between various endpoint sites, as can be found, for example, in multicast systems. The *Troxel* system further includes a token counter associated with the data flow into a node and is incremented at a predetermined rate of tokens per second. The token counter is decremented by a number of tokens as required for passing an arriving message in that flow through the node. The number of tokens required for passing an arriving message is determined by the attributes of the arriving message. *Troxel* hopes to optimize traffic flow control by passing packets of data according to a packet size and the number of tokens. Nothing has been found in *Troxel*, however, that would teach or suggest a source node is adapted to set a segment size in accordance with reception capabilities of the one or more destination nodes in order to segment object data into one or more segments, to segment the object data into one or more segments in accordance with the segment size, and to transfer data in each segment to one or more destination nodes via a logical connection, as recited in claim 1.

In view of the foregoing, Applicants submit that claim 1 is clearly allowable over the cited art.

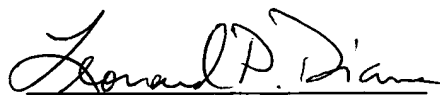
Independent claims 24 and 28 are data communication method and data communication apparatus claims, respectively, corresponding to system claim 1, and are believed to be patentable for at least the same reasons as discussed above in connection with claim 1.

The other rejected claims in this application depend from one or another of the independent claims discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,



Attorney for Applicants

Registration No. 29,296

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
NYMAIN382053